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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,063	05/05/2004	Chin-Hua Yang	P04016	6655

7590 05/11/2005

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/840,063	Applicant(s) YANG, CHIN-HUA	
	Examiner Urszula M. Cegielnik	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/05/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION*****Claim Objections***

Claim 1 is objected to because of the following informalities: Claim 1, line 3, recites "and arm appendages to said torso". The recitation appears to be missing claim language. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwan.

Kwan discloses a fabric casing (52) having a head portion (74), a torso portion (84) having a bottom opening (the lower portion encompassing reference numeral 56), and arm appendages (72) being pre-filled stuffed (paragraph 0027, line 14) to the torso (84); an inflatable inner tube (54) having an air inlet (38) (paragraph 0021, lines 8-9), a top portion conforming to the size and shape of the head portion (74) of the casing (52) (paragraph 0027, lines 5-12), a bottom portion conforming to the size and shape of the torso portion (84) (paragraph 0027, lines 5-12), the bottom portion having a flat end lower body region (such as a standing leg base, paragraph 0016, line 15); the inner tube can be deflated and inserted through the bottom opening (the lower portion encompassing reference

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numeral 56) of the torso portion (84), the inner tube is inflated inside the casing by injecting air through the air inlet (paragraph 0021, lines 8-9), the inner tube can stand up on the flat end of the bottom portion to impart a three dimensional figure (paragraph 0016, line 15) the inner tube can be deflated for a minimum packaging volume (paragraph 0015, lines 14-15); the arm appendages consist of compressible padding materials; the top portion and bottom portion have an oval shape (paragraph 0006, line 31); a pair of eyes, a nose, a pair of ears, a mouth, a red and what color hat, a white beard on the head portion of the casing and decorative ornaments on the torso portion of the casing (paragraph 0028, lines 6-13); the fabric casing consists of red and white color fabrics (the casing may be configured as a Santa Claus (paragraph 0028, line 16) which inherently includes clothes having red and white color); the inner tube is made of rubber or plastic materials of some elasticity (paragraph 0015, entire paragraph).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan in view of Lemelson.

Kwan discloses the claimed invention except for illuminating ornaments being fiber optic; illuminating ornaments on the torso portion, and a power supply

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connected to the ornaments and the power supply being contained in a pocket on the fabric casing.

Lemelson teaches illuminating ornaments (22) in the form of electric lamps on the external surface of an inflated display (col. 3, lines 37-38), a power supply (22) connected to the ornaments (25); the power supply (22) being contained in a pocket on the fabric casing (col. 3, lines 37-43 and col. 4, lines 56-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide illuminating ornaments on the external surface (torso portion) of the inflated display and associated power supply as taught by Lemelson, since such a modification would provide enhanced visual appeal to the device.

With respect to the illuminating ornaments being fiber optic It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide illumination, since the examiner takes Official Notice of the equivalence of electric lamps and fiber optics for their use in the illumination art and the selection of any of these shown equivalents to provide illumination would be within the level of ordinary skill in the art.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3714



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700